

APPEAL NO. 022121
FILED OCTOBER 8, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on August 1, 2002, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the sixth quarter. The appellant (carrier) has appealed this determination on insufficiency of the evidence grounds. The file does not contain a response from the claimant.

DECISION

Affirmed.

The requirements for entitlement to SIBs are found in Sections 408.142 and 408.143 of the 1989 Act and in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.101 and 130.102 (Rules 130.101 and 130.102)). The claimant testified that she had worked as a nurse's aide at a hospital for many years when she injured her back pulling a patient up in bed; that she subsequently underwent three lumbar spine operations resulting in certain physical restrictions; that she has only an 11th grade education and resides in a small town; and that in addition to the job search contacts listed on her Application for [SIBs] (TWCC-53), most of which she sought in person, she reviewed the biweekly newspaper for jobs that she could perform. The carrier's position was that the claimant's documented job search efforts did not meet the requirements of a good faith attempt to obtain employment commensurate with her ability to work, as provided for in Rules 130.102(d)(5) and 130.102(e).

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). We are satisfied that the challenged factual determinations of the hearing officer are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **RCH PROTECT COOP** and the name and address of its registered agent for service of process is

**KEVIN REID
1801 SOUTH MOPAC, SUITE 300
AUSTIN, TEXAS 78701.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Veronica Lopez
Appeals Judge

Gary L. Kilgore
Appeals Judge